



## TOWN OF BEAUX ARTS VILLAGE

### TOWN COUNCIL MINUTES

June 8, 2004  
Hickey

Mayor Lowry called the meeting to order at 7:30 pm.

**PRESENT:** Mayor Chuck Lowry, Councilmembers Malcolm Hickey, Tom Robinson, and John Rose.

**EXCUSED:** Councilmembers Betty Heckendorn and Judee Wells.

**STAFF:** Clerk-Treasurer Sue Ann Spens.

**GUESTS:** Water Department Manager Bob Durr, WABA Representative Sally Jerome, Wolf Dix, Tom Stowe, Jim Finnell, Walter Scott.

**MINUTES:** Councilmember Rose moved to approve the May 11, 2004 minutes as amended. Councilmember Robinson seconded.

Vote: 3 For, 0 Against, 0 Abstain. Motion carried.

**CLERK'S REPORT:** Clerk-Treasurer Spens reported that the City of Clyde Hill has asked for a roster of elected and appointed officials for Beaux Arts, including home addresses and telephone numbers. She commented that she had not yet provided this information, as she was concerned about potential privacy issues, preferring to check with the Mayor and Council first. It was the consensus of the Council that they will continue to provide contact information as appropriate but would prefer not to distribute a comprehensive list outside of the Town.

**BEAUX ARTS WEBSITE:** Clerk-Treasurer Spens noted that the Town's new website is up and running. She added that Municipal Research is hosting our website for free and that they have made it simple for her to update the website as needed.

**ANNUAL REPORT:** Clerk-Treasurer Spens reported that the Town's Annual Report for 2003 was submitted to the State Auditor's Office prior to the May 28, 2004 deadline.

**2004 WATER QUALITY REPORT:** Clerk-Treasurer Spens reported that the Town's 2004 Consumer Confidence Report, required by the state Department of Health, is ready and will be mailed to Beaux Arts Water Department customers with their July statements.

**BACKFLOW TESTING:** Clerk-Treasurer Spens reported that Joe Harbour has been testing backflow-prevention devices (BPD) throughout Town and should be finished soon. Sally Jerome commented that her BPD had already been tested by someone she hires before Mr. Harbour tested hers. She asked if she would be charged for the second test, since she had asked former Clerk-Treasurer D'Alessio to remove her name from the list. Water Department Manager Durr answered that if Ms. Jerome will forward a certified copy of her previous test

results showing that her device passed, the Town will waive this year's testing fee and remove her name from the list for next year.

**I-864:** Clerk-Treasurer Spens reported that a number of larger cities are putting their current property-tax levies on a fall ballot for confirmation by the registered voters in their jurisdictions to protect their current levy base in case I-864 passes. She asked the Council if they wish to look into the issue at all. Councilmember Rose answered that, if I-864 passes, he feels the Town's Cumulative Reserve Fund has a sufficient balance to cover the Town's operating costs until the Council can put a levy lift measure on the ballot.

**LOCKING MAILBOXES:** Clerk-Treasurer Spens reported that she has collected checks from at least 20 residents and will be taking the order for locking mailboxes to Security Safe and Lock later this week.

**WARRANTS:** Councilmember Rose moved to approve the June 8, 2004 warrant list, including warrant numbers 6415 through 6442 in the amount of \$14,940.01. Councilmember Hickey seconded.

Vote: 3 For, 0 Against, 0 Abstain. Motion carried.

**MARSHAL'S REPORT:** No report.

**WABA REPORT:** WABA Representative Sally Jerome reported that the sewer line at the beach has been repaired, that the Beaux Arts Beach sign will be replaced in about two weeks, that security patrols on the beach begin this week, and that all residents and renters have applications on file, making them eligible to use the beach.

Ms. Jerome reminded the Council that WABA has retained litigation counsel in the matter of the dispute with the Solaros and that WABA will keep everyone informed of their progress in this matter.

**WATER REPORT:** Water Department Manager Durr reported that he has a quote for \$25,400 to replace the pump, as budgeted for this year, provided the contractor finds no problems with the pump housing, electrical connections, cabling, etc. He stated that he asked Evergreen Rural Water Association to review the estimate and they have said this is a fair price. He asked Clerk-Treasurer Spens to prepare a Purchase Order for Mayor Lowry's signature.

Mr. Durr also reported that Bill Beck has been rebuilding fire hydrants by replacing their gaskets.

**EMERGENCY PREPAREDNESS:** Councilmember Robinson stated while he and Clerk-Treasurer Spens had thought the deadline for participating as an annex to the King County Hazard Mitigation Plan, it seems that we still have some time. He will review what we've prepared so far and work to finalize it so that we can submit it to King County for another review.

**PLANNING COMMISSION REQUEST FOR CLARIFICATION ON ISSUES:** Mayor Lowry directed the Council's attention to a memo from the Planning Commission in which they ask for clarification and direction on the following issues:

- (1) whether water features in setbacks should be regulated,
- (2) whether the Town's policy for managing trees on public property should be altered, and
- (3) whether the method for measuring building height and establishing existing grade should be changed.

With regard to (1), Mayor Lowry explained that the issue raised by the Board of Adjustment is the Beaux Arts Zoning Code, which is more restrictive than other communities in what it allows to be placed in the setbacks because it defines any constructed item as a structure and prohibits said "structures" from being located in the setbacks of a given property. He added that the Board has found that prohibited items include covered gates, garden trellises and arbors, fireplaces, fountains, birdbaths, low landscaping walls and rockeries, flagpoles, garden benches, raised flower beds and vegetable gardens, and water features (in the ground and waterfalls) that are typically considered landscaping features rather than structures. He commented that the Board has noted that several of these "structures" have been erected throughout the Village over time without permits and is unaware of any concerns or complaints expressed by neighbors about these installations. He then noted that the Board of Adjustment feels that this regulation is too restrictive, because it bans lesser structures from setbacks, unless the property owner seeks a variance, and that the Board feels that such "lesser structures" should be outside of their review.

Councilmember Robinson opened the discussion by asking, "Why is BAV so unique as to need such strong regulations for its setbacks, particularly in light of the diversity of its existing properties and structures?" He suggested that the Planning Commission study this issue, including the "prohibited items" listed in the sixth paragraph of Mr. Welsh's letter, and revise the Zoning Code so as to relax the rules and allow some or all of these types of items to be placed in the setbacks. He also suggested that if the Planning Commission decides that the rules should not be relaxed, they should be prepared to present compelling reasons for not relaxing these rules.

With regard to (2), it was the consensus of the Council not to take action on tree policy until Councilmember Wells is present for the discussion.

With regard to (3), Councilmember Rose commented that he understands this issue has come up, in part, as a result of the new home being built by the Kendalls on SE 29<sup>th</sup> Street and that while he believes that Building Official Joe Willis has applied correctly the rules set forth by the Zoning Code for calculating height and existing grade, this home appears to be higher than what he would expect our Zoning Code would allow. It was the consensus of the Council that the Planning Commission:

- re-examine this issue from the perspective of "This house is taller than what we thought would be allowed" to understand how the current code allows this structure height and revise the rules accordingly.
- consider including a maximum height for a structure at any point in addition to the current "average height" method employed in the Zoning Code and that the Planning

Commission develop and consider results on other examples of lot slopes found within the Village.

- present this study along with any proposed changes and a recommendation to the Council for action in a timely manner.

**PROPOSED ORDINANCE NO. 324 AMENDING BUILDING CODE ORDINANCE NO. 265 TO ADOPT BY REFERENCE THE INTERNATIONAL BUILDING CODE:** Clerk-Treasurer Spens reminded the Council that this amendment is in response to the State's adoption of the International Building Code replacing the Uniform Building Code, which takes effect July 1, 2004.

**MOTION:** Councilmember Robinson moved to pass Ordinance No. 324. Councilmember Hickey seconded.

Vote: 3 For, 0 Against, 0 Abstain. Motion carried.

#### **MAYOR AND COUNCILMEMBER REPORTS:**

**BOARD OF ADJUSTMENT APPOINTMENT:** Mayor Lowry announced that he has asked Katherine Murray to serve on the Board of Adjustment replacing Jan Johnston, who recently resigned. He asked that the Council confirm this appointment.

**MOTION:** Councilmember Rose moved to confirm the appointment of Katherine Murray to the Board of Adjustment. Councilmember Hickey seconded.

Vote: 3 For, 0 Against, 0 Abstain. Motion carried.

**SOUND TRANSIT:** Councilmember Rose reported that he had attempted to attend the June 3<sup>rd</sup> meeting of the Sound Transit Board but the meeting was cancelled. He commented that a number of Village residents showed up for the meeting and that the group used the time instead to discuss some ideas and strategies for this issue. He also reported that at this informal meeting, Walter Scott expressed his view that the Town should file an appeal of the project's Final Environmental Impact Statement (EIS), otherwise the EIS would be accepted by default the following day. Councilmember Rose noted that he explained to Mr. Scott that he (Councilmember Rose) was not authorized to commit the Town's funds and suggested that Mr. Scott collect the needed \$200 filing fees from the group in attendance. He reported that Mr. Scott successfully collected enough to file an appeal of the EIS. Councilmember Rose reported that Mr. Scott now wishes the Town to commit funds to retain counsel to handle this appeal and try to force Sound Transit to mitigate the noise from the East Channel Bridge.

Mayor Lowry commented that it is his understanding that Sound Transit cannot spend federal money on sound mitigation unless the federal thresholds for noise are exceeded.

Tom Stowe suggested that BAV has little leverage in this matter since no Town property borders the I-90 right of way. He explained that our situation is that of Mercer Island and I-90 or the Points Communities and SR520. He added that he thinks it is probably a lost cause even though he agrees with the intentions of this action.

Councilmember Rose stated that he doesn't want to discourage citizen involvement but on the other hand he isn't sure it is appropriate to commit public funds, especially to a lawsuit that is an open-ended expenditure, given our limited resources. He added that the Council has expressed its feelings formally in two separate resolutions but it would be helpful if some member of the Council can attend on June 10<sup>th</sup>.

Councilmember Robinson agreed that BAV needs a larger coalition to have an impact.

**COMCAST FRANCHISE:** Mayor Lowry reported that Clyde Hill has invited us to participate in a group negotiation with Comcast for a new franchise agreement. It was the consensus of the Council to decline for budgetary reasons.

**ROCKS AT FIVE CORNERS:** Councilmember Hickey reported that Bill Beck will move the rocks at 5-Corners away from the road about six inches. He also reported that Bill Beck will place new gravel around the mailstands.

**DEAD TREES:** Councilmember Hickey reported that he will have a dead tree removed from the path between the Billeras and the Bowens. He asked if there are any other trees to remove at the same time. Councilmember Robinson suggested that Malcolm examine the tree behind the mailstand near his home, as it appears to be ailing.

**NEXT MEETING:** Clerk-Treasurer Spens reminded the Council that their next meeting is scheduled for July 13th and will be held at Mayor Lowry's house.

**ADJOURN:** Councilmember Robinson moved to adjourn the meeting at 9:20pm.

Councilmember Hickey seconded.

Vote: 3 For, 0 Against, 0 Abstain. Motion carried.

Respectfully submitted,

Sue Ann Spens  
Clerk-Treasurer